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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,922	08/20/2001	Yoshinori Takasaki	0050-0159	4337
44987 7590 08/17/2009 HARRITY & HARRITY, LLP 11350 Random Hills Road SUITE 600 FAIRFAX, VA 22030				
EXAMINER				
GREY, CHRISTOPHER P				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
08/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YOSHINORI TAKASAKI

Application No. 09/931,922
Technology Center 2400

Mailed: August 17, 2009

Before DEBORAH L. PERRY, *Supervisory Paralegal Specialist*.
PERRY, *Supervisory Paralegal Specialist, Review Team*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on March 24, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER

EVIDENCE RELIED UPON

The Examiner's Answer mailed November 13, 2008, is deficient because the "Evidence Relied Upon" section fails to include the reference to Nagata et al., U.S. 6,269,083 (*see* pages 2), wherein:

Claims 1, 3-7, 9-19 are rejected under 35 USC §102(e) as being anticipated by Nagata et al. (U.S. Patent No. 6,269,083).

Further, the "Evidence Relied Upon" section fails to include the reference to Hsing et al., U.S. Patent No. 6,167,025 (*see* page 11), where in:

Claims 2 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagata et al. (U.S. Patent No. 6,269,083), herein after referred to as Nagata in view of Hsing et al. (U.S. Patent No. 6,167,083).

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

Appropriate correction to the Prior Art of Record is required.

CONCLUSION

Accordingly,

it is ORDERED that the application is returned to the Examiner to:

- 1) vacate the Examiner's Answer November 13, 2008;
- 2) issue a PTOL-90C citing the references used in the rejection of the claims on appeal; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

dlp/mev

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